FAO No. 5660 of 2004 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 27.11.2006

Janak Raj & Others

.....Appellants

Versus

Sukhdev Singhand others

.....Respondents

CORAM : HON'BLE MR. JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

.....

Present : Mr.Suraj Kailay, Advocate for
Mr.Sandeep Punchhi, Advocate
for the appellants.

...

MAHESH GROVER, J. (O)

The owner and driver have preferred the present appeal against the award of the Motor Accident Claims Tribunal, Sirsa dated 21.9.2004 passed in Case No.53/2001/2002.

The appeal was preferred in the year 2004 and the record of proceedings reveals that learned counsel for the appellants failed to assist this Court despite several opportunities having been granted to him over a period of almost two years. On 26.10.2006 last opportunity was granted to the appellants to make submissions and the matter was adjourned to 27.11.2006. Today again Mr. Suraj Kailay, Advocate, who appeared on behalf of the learned counsel for the appellants, pleaded for an adjournment and expressed his inability to assist the Court on the merits of the case. The prayer being unreasonable is rejected.

Perused the award. In an accident stated to have taken place on 9.4.2001, respondent Sukhdev Singh, aged 20 years suffered 100 per cent disability on account of the injuries sustained by him. The Tribunal awarded a sum of Rs.4,06,000/- to the claimant and held the appellants liable to satisfy the award, primarily on the ground that it was found that the injured was an unauthorised passenger travelling in a goods vehicle.

Applying the ratio of the case **New India Insurance Co.Ltd. v. Asha Rani and others** III (2002) ACC-75(SC) and **National Insurance Co.Ltd. v. Ajit Kumar and others** III (2003) ACC 277 (SC), the insurance company was absolved of its liability to satisfy the award.

Nothing has been shown which could persuade us to take a different view than that expressed by the Tribunal.

For the reasons stated above, we do not find any merit in the appeal and the same is dismissed being devoid of any merit.

(UMA NATH SINGH)
(JUDGE)

(MAHESH GROVER)
JUDGE

November 27, 2006

dss